Ong Hock Sim F.J.: With respect, I disagree with the learned judge.

To my mind, the issue is one of simple interpretation. Are the premises rent-controlled and entitled to protection of the Control of Rent Act, 1966? It is undisputed that the premises were constructed before January 31, 1948. What is up for decision is whether the premises in question is property of the Government of the Federation within the meaning of section 4(2)(b) of the Control of Rent Act and therefore outside the *ambit* of the Act. I am of the view that it is not necessary to deal with the other grounds.

My main concern, without indulging in arguments as to vesting, and other questions as to present entitlement to the property concerned, is who is the owner in law. The suit is not instituted by the Government of Malaysia in the first instance. The Malayan Railways may have been conferred with a status of some sort, but it is *not* the Government of the Federation nor is the Federal Government in any way invested with proprietary rights over the Station Hotel. True, Railway property is now vested in the Federal Lands Commissioner by virtue of section 15 who holds it "for the purposes of the Malayan Railway." He is, in my view, a trustee of the land for the Railway. Such vesting does not divest the Railway of its rights and effect a transfer of the property to the Government.

Here, I may advert to paragraph 1 of the statement of claim. This reads: —

"1. The plaintiff is a corporate body established under the Railway Ordinance 1948, and is the registered owner of the premises constituting 'Station Hotel Kuala Lumpur' and held under the Railway Reserve Lot No. 13 in the district of Kuala Lumpur (hereinafter referred to as the said premises)."

In the light of the pleadings, it was, in my view, not open to the learned judge to depart therefrom and hold the premises to be the "property of the Government of the Federation." I do not need to deal with estoppel.

I am not prepared to hold that the issue in this case is as crystal clear and I do not think it a fit case for invoking Order 14 or Order 25.

I would allow the appeal and direct that unconditional leave to defend be granted to the appellants. Costs of this appeal and in the court below to appellants. Deposit refunded.

Appeal dismissed.

Solicitors: *Allen & Gledhill; Skrine & Co.*

CHU CHU LOCK v. CHU MEK CHUAN & ANOR.

[O.C.J. (Abdul Razak J.) November 9, 1975]

[Kota Bharu — Civil Suit No. 10 of 1972]

Practice and Procedure — Locus standi — Claim arising out of a collateral dispute — Plaintiff not a party to earlier suit — Whether claim could be entertained — Small Estates Distribution Ordinance, 1955, s. 14.

The plaintiff in this action claimed as being entitled to the piece of land in question. The action purportedly arose out of a collateral dispute in a distribution suit before the Collector between the first defendant and the second defendant of the estate of the deceased. The first defendant had claimed a half share in respect of the said land on the basis of *'harta sepencharian'*, and said that the deceased's daughter (the second defendant) was entitled to a share in the land only after her. The second defendant, on the other hand, contended that the father told her he wanted to give the land to her as he had already given a piece of land to her step-mother. As the dispute could not be resolved by the Collector, the parties were asked under section 14 of the Small Estates Distribution Ordinance to take the matter to court.

The first defendant did not bring an action as ordered by the Collector. Instead, the plaintiff, supposedly the adopted son of the deceased, made his appearance, suing his adopted mother, the first defendant and the second defendant, claiming that the said land was in fact given to him by the deceased and the first defendant. The first defendant did not contest the appearance and did not file a defence to it. The second defendant, however, sought the court to set the plaintiff's claim aside. She argued that the plaintiff had no cause of action as he was not a party to the suit before the Collector.

Held, dismissing the plaintiff's action: the plaintiff could not seek to bring an action purportedly under the Collector's direction because he was not a party to the suit earlier and therefore had no *locus standi* here.

CIVIL SUIT.

A. Wilson for the plaintiff.

Foo Say Ghee for the defendants.

Abdul Razak J.: The plaintiff in this action claimed as being entitled to land Lot No. 3551, Mukim Pasir Genda, District of Tanah Merah held under NEMR 582. The action purportedly arose out of a collateral dispute in a distribution suit before the Collector between the 1st defendant Chu Mek Chuan the wife and the 2nd defendant Keong Kim Bee the daughter of and over the estate of one Chiong Tie Soon, deceased. At the suit the 1st defendant had claimed a half share in respect of the said land on the basis of 'harta sepencharian'. She said that the deceased's daughter was entitled to a share in the land only after her. She claimed then that she and the 2nd defendant were the only beneficiaries to the estate, she being the second wife and the 2nd defendant being the daughter of the said Chiong Tie Soon by his first wife Wee Mek Kion. She mentioned there were two pieces of land owned by the deceased one of which was given to her and the other was registered in the deceased's name. She claimed however that she also had a share in the latter on the basis of 'harta sepencharian'. This was the land which was in dispute. The said daughter Keong Kim Bee however denied that the land in the deceased's name was held by her father as 'harta sepencharian'. She said that the father told her he wanted to give the land to her as he had already given a piece of land to her step-mother. The matter being thus a collateral dispute could not be resolved by the Collector. The parties were asked under section 14 of the Small Estates Distribution Ordinance to take the matter to court.

But a very strange thing happened here before me. Instead of bringing an action as one would expect of her and as ordered by the Collector, the claimant before the Collector, Chu Mek Chuan, refrained from doing so. One called Chu Chu Lock, supposedly the adopted son of the deceased, made his appearance instead suing his adopted mother Chu Mek Chuan and the 2nd defendant claiming that the land (in dispute before the Collector) was in fact given to him by the deceased and his adopted mother. It was not difficult to see therefore that on that contention he had to make Chu Mek Chuan, which he duly did, the defendant in the action. What was stranger still was that, nevertheless, the 1st defendant did not, again as one would expect, contest the claim. She did not enter an appearance nor file a defence to it. Apparently my curiosity and puzzle did not end there. During the trial, and not after some surprise to me, the plaintiff's counsel indicated, odd that it might appear to be, that the 1st defendant would be giving evidence for the plaintiff and asked whether it would be proper for her to be appearing to be a defendant when in fact she was a witness and therefore should be heard or be seen to be outside the court's precinct. Odd that the application might appear to be, I could not but agree with counsel more and duly made the order.

The 2nd defendant in her Statement of Defence did not seek to dispute the allegation of facts stated in the Statement of Claim. She merely asked the court to set it aside saying that the plaintiff had, by bringing the action against her, when he or his guardian had not instituted or been a party to the suit before the Collector, had no cause of action to do so. In clearer terms she contended that to bring a collateral dispute before the court between parties other than those under the Collector's order and outside the issue therein stated, is an abuse of the process of the court.

It is time for me to consider, therefore, whether the plaintiff has a cause of action or to put it more correctly a right of action against the defendants. With respect, I must say with no hesitation whatever, he clearly did not have. It was beyond any doubt, from the agreed bundle at P25, that the action was made purportedly pursuant to the Collector's direction to the parties before him to refer under section 14 their dispute to court. The parties were therein stated to be between Chu Mek Chuan and Keong Kim Bee, the 1st and 2nd defendants in this action. The plaintiff could not therefore seek to bring an action purportedly under the said direction because he was not a party to the suit earlier and therefore had no *locus standi* here. To entertain such an action would be to make the court a party to a move to defeat the object of the Collector's reference which was to resolve between the parties therein stated the dispute before it and which must therefore, now, because of the failure of the said parties to bring an action as so directed, on the dispute therein stated, be under the said Section determined by the Collector.

I shall therefore dismiss the plaintiff's action with costs.

Claim dismissed.

Solicitors: *Wilson & Co.; Foo Say Ghee & Co.*

YU OI YONG & ANOR. v. HO TOONG PENG & ORS.

[A.C.J. (Chang Min Tat J.) March 25, 1976]
[Kuala Lumpur — Originating Summons No. 215 of 1968]

Practice and Procedure — Appeal against Senior Assistant Registrar's decision — Whether accounts had been properly lodged and were in the proper form — R.S.C., 1957, O. 33 r. 4, O. 38 r. 23 & O. 55 r. 75.

Accounts — Non-compliance with form in rules — Whether excusable — R.S.C., 1957, O. 33 r. 4, O. 38 r. 23 & O. 55 r. 75.

This is an appeal from the decision of the learned Senior Assistant Registrar overruling the objections of the third defendant to the form of accounts which were submitted by the receiver in pursuance of an order of court.

The accounts submitted were nothing more or less than a chronological order of the receipts and payments of the firm concerned and the entries were unnumbered. The accounts were nowhere near the forms set out in the rules.

Held, allowing the appeal: (1) there should be some adherence to the rules of court, unless required by circumstances, if there is to be any meaning or purpose in such rules;

(2) it should be realised by practitioners as well as by judges that while strict and slavish adherence to forms and rules can sometimes hinder the administration of justice, these forms and rules should not be disregarded for no reason whatsoever, since they embody the experience of the courts over the years in the cause of speedy and efficient administration of justice;

(3) an order will be made that the receiver do file proper accounts in accordance with the Rules within two months from the date hereof.

ORIGINATING SUMMONS.

Wong Weng Kwai for the plaintiffs.

Wong Chong Wah for the 1st & 2nd defendants.

Chin Yew Meng for the 3rd defendant.

Vincent Ponniah for the Receiver.

Chang Min Tat J.: This is an appeal from the decision of the learned Senior Assistant Registrar overruling the objections of the third defendant to the form of accounts which were submitted by the receiver in pursuance of an order of court.

Incidentally, the Senior Assistant Registrar was rather critical of the somewhat inordinate delay that has taken place in a very long outstanding case. He did not allude to another objection that could be taken. The actual terms of the order for the accounts that was obtained from the court did not include any provisions for the time in which surcharges and falsifications should be taken. Parties are, with respect, unhindered as to the time in which they could take to implement the order. The absence of such provisions could and in this case must be seen to make for delay.

But that is all very much by the way. I had strictly to decide in this appeal whether the Senior Assistant Registrar was right in his decision that the accounts had been properly lodged and the accounts were in the proper form so that the court might properly pass the accounts, in view of the objections that were taken. There were serious arguments before the Registrar and before me, but I think the decision is reasonably clear. Order 33 rule 4 of the Rules of the